



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-560-838]

Polyester Textured Yarn from Indonesia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that polyester textured yarn from Indonesia is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is October 1, 2019, through September 30, 2020. Interested parties are invited to comment on this preliminary determination.

**DATES:** Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Toni Page or Peter Shaw, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1398 or (202) 482-0697, respectively.

### **SUPPLEMENTARY INFORMATION:**

#### Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce initiated this LTFV investigation on November 17, 2020.<sup>1</sup> On April 2, 2021, Commerce postponed the preliminary determination in this investigation and the revised deadline is now May 26, 2021.<sup>2</sup>

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<sup>1</sup> See *Polyester Textured Yarn from Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 74680 (November 23, 2020) (*Initiation Notice*).

<sup>2</sup> See *Polyester Textured Yarn from Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 86 FR 17362 (April 2, 2021).

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.<sup>3</sup> A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

### Scope of the Investigation

The product covered by this investigation is polyester textured yarn from Indonesia. For a complete description of the scope of this investigation, *see* Appendix I.

### Scope Comments

In accordance with the *Preamble* to Commerce's regulations,<sup>4</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>5</sup> Certain interested parties commented on the scope of this investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.<sup>6</sup> As discussed in the Preliminary Scope Decision Memorandum, Commerce is preliminarily not modifying the scope language as it appeared in the *Initiation Notice*. *See* the scope in Appendix I to this notice.

The Preliminary Scope Decision Memorandum establishes the deadline to submit scope

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<sup>3</sup> *See* Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Polyester Textured Yarn from Indonesia," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>4</sup> *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>5</sup> *See Initiation Notice*, 85 FR at 74681.

<sup>6</sup> *See* Memorandum, "Antidumping Duty Investigations of Polyester Textured Yarn from Indonesia, Malaysia, Thailand, and Vietnam: Preliminary Scope Decision Memorandum," dated concurrently with this notice (Preliminary Scope Decision Memorandum)

case briefs.<sup>7</sup> There will be no further opportunity for comments on scope-related issues.

### Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Normal value has been calculated in accordance with section 773 of the Act. Furthermore, pursuant to sections 776(a) and (b) of the Act, Commerce has preliminarily used an adverse inference when selecting from among the facts otherwise available to determine the margin for PT Polyfin Canggih (Polyfin), one of three companies selected for individual examination in this investigation.<sup>8</sup> For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

### All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. Pursuant to section 735(c)(5)(A) of the Act, this rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding rates that are zero, *de minimis*, or determined entirely under section 776 of the Act.

In this investigation, Commerce preliminarily calculated individual estimated weighted-average dumping margins for PT. Asia Pacific Fibers Tbk (Asia Pacific) and PT. Mutu Gading Tekstil (Mutu Gading) that are not zero, *de minimis*, or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted average of the estimated weighted-average dumping margins calculated for Asia Pacific and Mutu Gading using each

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<sup>7</sup> Case briefs, other written comments, and rebuttal briefs submitted by in response to this preliminary LTFV determination should not include scope-related issues. *See* Preliminary Scope Decision Memorandum, and “Public Comment” section of this notice.

<sup>8</sup> For a full discussion on respondent selection in the investigation, *see* the Preliminary Determination Memorandum at 2.

company's publicly-ranged values for the merchandise under consideration.<sup>9</sup>

### Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

<b>Producer or Exporter</b>	<b>Estimated Weighted-Average Dumping Margin (percent)</b>
PT Polyfin Canggih	26.07*
PT. Asia Pacific Fibers Tbk	9.20
PT. Mutu Gading Tekstil	7.45
All Others	8.71

\*Adverse Facts Available (AFA).

### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit for estimated antidumping duties as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and

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<sup>9</sup> With more than one respondent under examination, Commerce normally calculates (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010). As complete publicly-ranged sales data was available, Commerce based the all-others rate on the publicly-ranged sales data of the mandatory respondents. For a complete analysis of the data, *see* Memorandum, "Antidumping Duty Investigation of Polyester Textured Yarn from Indonesia: Preliminary Determination Calculation for the All-Others," dated May 26, 2021.

exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

#### Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

#### Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination. Normally, Commerce verifies information using standard procedures, including an on-site examination of original accounting, financial, and sales documentation. However, due to current travel restrictions in response to the global COVID-19 pandemic, Commerce is unable to conduct on-site verification in this investigation. Accordingly, we intend to verify the information relied upon in making the final determination through alternative means in lieu of an on-site verification.

#### Public Comment

Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance. A timeline for the submission of case briefs and written comments on non-scope issues will be provided to interested parties at a later date. Rebuttal briefs, limited to issues raised in these case briefs, may be submitted no later than seven days after the deadline date for case briefs.<sup>10</sup> The deadlines for submitting case and rebuttal briefs on scope issues are in the Preliminary Scope Decision Memorandum.<sup>11</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this

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<sup>10</sup> See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020) and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (collectively, *Temporary Rule*).

<sup>11</sup> See Preliminary Scope Decision Memorandum.

investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information until further notice.<sup>12</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

#### Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination in the *Federal Register* if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On April 30, 2021, pursuant to 19 CFR 351.210(e), Asia Pacific and Mutu Gading requested that Commerce postpone the final determination and that provisional measures be

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<sup>12</sup> See *Temporary Rule*.

extended to a period not to exceed six months.<sup>13</sup> Asia Pacific and Mutu Gading stated that the reasons for their requests is the magnitude and complexity of this investigation, as well as the time required for verification, briefing, holding a hearing, and issuing a final determination that addresses all the legal and factual issues raised by the interested parties in this proceeding.<sup>14</sup> Under the circumstances of this case, a postponement of the final determination for the maximum statutory period is warranted. In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.

#### International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, then the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of polyester textured yarn from Indonesia are materially injuring, or threaten material injury to, the U.S. industry.

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<sup>13</sup> See Mutu Gading's Letter, "Polyester Textured Yarn from Indonesia: Request to Postpone the Final Determination," dated April 30, 2021 (Mutu Gading Final Postponement Request); *see also* Asia Pacific's Letter, "Polyester Textured Yarn from Indonesia: Request to Postpone the Final Determination," dated April 30, 2021 (Asia Pacific Final Postponement Request).

<sup>14</sup> See Mutu Gading Final Postponement Request at 2; *see also* Asia Pacific Final Postponement Request at 2.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, 19 CFR 351.205(c), and 19 CFR 351.210(g).

Dated: May 26, 2021.

**Christian Marsh**, *Acting Assistant Secretary for Enforcement and Compliance.*



## **Appendix I**

### **Scope of the Investigation**

The merchandise covered by this investigation, polyester textured yarn, is synthetic multifilament yarn that is manufactured from polyester (polyethylene terephthalate). Polyester textured yarn is produced through a texturing process, which imparts special properties to the filaments of the yarn, including stretch, bulk, strength, moisture absorption, insulation, and the appearance of a natural fiber. This scope includes all forms of polyester textured yarn, regardless of surface texture or appearance, yarn density and thickness (as measured in denier), number of filaments, number of plies, finish (luster), cross section, color, dye method, texturing method, or packaging method (such as spindles, tubes, or beams).

The merchandise subject to this investigation is properly classified under subheadings 5402.33.3000 and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

## **Appendix II**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope of Investigation
- V. Scope Comments
- VI. Application of Facts Available and Use of Adverse Inferences
- VII. All-Others Rate
- VIII. Discussion of Methodology
- IX. Currency Conversion
- X. Recommendation

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